



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Application No.: 10/030,163 **Examiner:** Daniel St. CYR
Filing Date: January 30, 2002 **Art Unit:** 2876
First Inventor: Albert MÖDL **Customer No.:** 23364
Attorney No.: MODL3002/JEK/JJC **Confirm. No.:** 4360
For: METHOD, DEVICE AND SYSTEM FOR BIOMETRICALLY
AUTHENTICATING A PERSON

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

This is an appeal brief filed pursuant to the applicants' appeal to the Board of Patent Appeals and Interferences from the final rejection of claims 1-5, 8, 10, and 13-20 in the above-identified application.

This appeal brief is revised in view of the Notice of Non-Compliant Appeal Brief that was received on August 7, 2006. In particular, sections III and V have been modified according to the items identified in the Notice.

I. REAL PARTY OF INTEREST

The real party of interest is the assignee of record: Giesecke & Devrient, GmbH (Munich, GERMANY).

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

A. Status of Claims in Proceeding

Claims 1-10 and 12-20 are currently pending in the pending application.

Claims 21-23 were submitted by amendment on March 24, 2006 but were denied entry. Independent claims 21 and 22 recite the allowable subject matter of claims 6 and 7, respectively, as indicated in the office action dated December 29, 2005, in combination with the limitations of claim 1. Dependent claim 23 recites the allowable subject matter of claim 9, as indicated in the office action dated December 29, 2005, and is dependent from claim 22. Claims 6, 7 and 9 were to be canceled in view of the new claims.

The amendment of March 24, 2006 was intended to present the allowable subject matter in new claims 21 and 22 in independent form. The amendment, however, was denied entry in the advisory action dated May 2, 2006. This amendment was considered by the applicants to simplify issues on appeal but was considered by the examiner to raise new issues despite the fact that the new claims recited combinations of subject matter previously recited in the claims.

Claim 11 is canceled.

Because the amendment of March 24, 2006 was not entered, claims 6, 7 and 9 were not canceled.

B. Identification of Appealed Claims

Claims 1, 10, 13, 19 and 20 are independent claims.

Claims 2-9 depend from independent claim 1, and their patentability is based on their dependency from claim 1 and their individually recited features.

Claim 12 depends from independent claim 10, and its patentability is based on its dependency from claim 10 and its individually recited features.

Claims 14-18 depend from independent claim 13, and their patentability is based on their dependency from claim 13 and their individually recited features.

A copy of all of the pending claims is provided in section IX.

IV. STATUS OF AMENDMENTS

There are no pending amendments of the claims.

The last entered amendment was filed on October 14, 2005 and these claims are listed in the appendix included herewith along with the non-entered claims 21-23 submitted on March 24, 2006.

V. SUMMARY OF CLAIMED SUBJECT MATTER

At the onset of this section, it should be made known that the pending application was filed without drawings. Moreover, the applicants choose to appeal from the rejection of only independent claims 1, 10 and 13.

Independent claim 19 essentially recites the method of claim 1 with the added features of claims 2 and 3. Independent claim 20 essentially recites the method of claim 1 with the added features of claims 4 and 5. It follows that if claim 1 is ruled patentable over the cited prior art, then claims 19 and 20 will likewise be patentable. For the sake of clarity, however, the subject matter of both claims 19 and 20 is discussed in detail below.

A. Claim 1

Claim 1 is an independent claim that recites a method for biometric authentication of a person. The method includes a reference data detection phase, and a verification phase (page 2, line 26 through page 3, line 17). The reference data detection phase includes the steps of detecting biometric data of a person and storing the detected biometric data as reference data (page 2, lines 26-27). At least one parameter is determined that is based on at least one individual property of the person that specifically influences sensory detection of the biometric data (page 2, line 30 - page 3, line 3).

In the verification phase, the at least one stored parameter is taken into account in at least one of the following method steps of: redetecting the person's biometric data (page 3, lines 4-6), comparing the redetected biometric data for a match with the reference data (page 3, lines 5-7), and authenticating the person if the match reaches a degree above a defined threshold value (page 3, line 7-9).

B. Claim 10

Claim 10 is another independent claim that recites a chip card comprising a first memory area with a person's biometric data as reference data (page 2, lines 26-28), and a second memory area with a parameter based on at least one individual

property of the person that specifically influences the sensory detection of the biometric data (page 2, lines 30-32).

C. Claim 13

Claim 13 is yet another independent claim that recites a system including a first memory area with a person's biometric data serving as reference data (page 2, lines 26-28), and a second memory area with a parameter based on at least one individual property of the person that specifically influences the sensory detection of the biometric data (page 2, lines 30-32). The system further includes a first device for detecting a person's biometric data (page 3, lines 19-25), and a second device for comparing the reference data stored in the first memory area of the apparatus for a match with the person's detected biometric data (page 1, lines 5-7; page 1, lines 12-14). The second device authenticates the person if the match reaches a degree above a defined threshold value (page 3, lines 11-17). At least one of the first and second devices is coupled with the parameter stored in the second memory area of the apparatus (page 3, lines 7-9).

D. Claim 19

Claim 19 is an independent claim that recites a method for biometric authentication of a person. The method includes a reference data detection phase, and a verification phase (page 2, line 26 through page 3, line 17). The reference data detection phase includes the steps of detecting biometric data of a person and storing the detected biometric data as reference data (page 2, lines 26-27). At least one parameter is determined that is based on at least one individual property of the person that specifically influences sensory detection of the biometric data (page 2, line 30 - page 3, line 3).

In the verification phase, the at least one stored parameter is taken into account in at least one of the following method steps of: redetecting the person's biometric data (page 3, lines 4-6), comparing the redetected biometric data for a match with the reference data (page 3, lines 5-7), and authenticating the person if the match reaches a degree above a defined threshold value (page 3, line 7-9).

This claim is distinguished in that the determined parameter is taken into account in the step of authenticating the person, and the defined threshold value is dependent on the predetermined parameter (page 3, lines 7-10).

E. Claim 20

Claim 20 is an independent claim that recites a method for biometric authentication of a person. The method includes a reference data detection phase, and a verification phase (page 2, line 26 through page 3, line 17). The reference data detection phase includes the steps of detecting biometric data of a person and storing the detected biometric data as reference data (page 2, lines 26-27). At least one parameter is determined that is based on at least one individual property of the person that specifically influences sensory detection of the biometric data (page 2, line 30 - page 3, line 3).

In the verification phase, the at least one stored parameter is taken into account in at least one of the following method steps of: redetecting the person's biometric data (page 3, lines 4-6), comparing the redetected biometric data for a match with the reference data (page 3, lines 5-7), and authenticating the person if the match reaches a degree above a defined threshold value (page 3, line 7-9).

This claim is distinguished in that the determined parameter is taken into account in the step of redetecting the biometric data, and the determined parameter is used for adjusting a sensor system for redetecting the biometric data (page 4, lines 3-17).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 10 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over by U.S. patent 5,719,950 (*Osten*) in view of U.S. patent 6,081,750 (*Hoffberg*).

VII. ARGUMENT

As discussed in detail below, the basis for the final rejection of claims 1, 10 and 13 does not amount to a *prima facie* case of obviousness for the combination of subject matter recited in the rejected claims. Therefore reversal of the rejection of claims 1, 10 and 13 is respectfully requested.

A. Claim Rejections

Claims 1, 10 and 13 were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 5,719,950 (*Osten*) in view of U.S. patent 6,081,750 (*Hoffberg*) in the office action dated December 29, 2005

B. Pertinent Law

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988).

The showings by the examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the *prima facie* case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole. See *id.*; *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986).

To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In practice, this requires that there be an

explanation as to the reasons one skilled in the art would have been motivated to select the references and to combine them to render the claimed invention obvious. *In re Rouffet* 149 F.3d 1350, 1357-59, 47 USPQ2d 1453, 1455-1457 (Fed. Cir. 1998). It follows that all of the words recited in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

C. The Proposed Combination of *Osten* and *Hoffberg* Fails to Render Claims 1, 10 and 13 *Prima Facie* Obvious

This rejection is respectfully traversed on the basis that the proposed combination of the teachings of *Osten* and *Hoffberg*, whether considered collectively or individually, fails to disclose all of the recited limitations of these claims, and suggest to one skilled in the art how to devise the method, chip card and system of the rejected claims. Moreover, even if combined together, the teachings of *Osten* and *Hoffberg* would not result in the claimed method, chip card and system of the claims.

As a result, the proposed combination of *Osten* and *Hoffberg* fails to render the pending claims *prima facie* obvious .

a. *Osten* and *Hoffberg* do not disclose all of the claimed limitations

The proposed combination of *Osten* and *Hoffberg* fails to disclose all of the claimed limitations required by claims 1, 10 and 13 in the pending application. The applicants are fully aware that one cannot argue against the references individually, as pointed out by the examiner in the office action dated December 29, 2005. However, it is axiomatic that in order to establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. In the current rejection, both *Osten* and *Hoffberg* collectively fail to teach all of the claimed limitations.

The evidence in *Osten* and *Hoffberg* relied upon by the examiner, as a whole, fails to indicate that it would have been known to one skilled in the art at the time of the invention of the pending application to determine at least one parameter based on

at least one individual property of the person that specifically influences sensory detection of biometric data, and to store the determined parameter to be taken into account in a verification step.

When discussing the features of both *Osten* and *Hoffberg*, the rejection of the claims appears to ignore the limitation “specifically influences.” Instead, the rejection merely indicates that *Osten* and *Hoffberg* teach acquiring biometric parameters that can influence biometric data; such biometric data collection by *Osten* and *Hoffberg* are unrelated to any particular parameter that affects sensory detection of certain biometric data.

It is clear that neither *Osten* nor *Hoffberg* disclose the concept of at least one parameter that “specifically influences” biometric data. For example, *Osten* describes using biometric data that is “non-specific,” and *Hoffberg* describes obtaining dynamic influencing data that are stored separately from static data (col. 34, line 29). In both the non-specific data of *Osten*, and the dynamic influencing biometric data of *Hoffberg*, there is no “specific” correlation of such data with certain biometric data that is taken into account to verify an individual.

i. Shortcomings of *Osten*

The shortcomings of *Osten* were described in the appeal brief filed on July 19, 2004. Specifically, *Osten* generally relates to a system that employs specific biometric data and at least one “non-specific” biometric parameter in separate and unrelated tests to authenticate an individual person (col. 3, lines 28-53).

Significantly, the teachings of *Osten* fail to disclose or suggest establishing or using a “parameter” that “specifically” influences the sensory detection of the biometric data used to authenticate the individual. Instead, while the specific biometric data is unique to the individual person being authenticated, the non-specific biometric parameters are merely used to determine if the obtained information relates to “acceptable norms” (col. 3, lines 56-59; col. 4, lines 14-22). Moreover, the specific information is used to uniquely identify the individual with the specific information,

and the non-specific information is only used to determine whether the individual is not “incapacitated, dismembered, or deceased” (col. 6, lines 9-13).

Unlike in claims 1, 10 and 13 of the present application, there is simply no disclosure of a secondary test that specifically confirms the validity of the specific biometric data in *Osten*.

According to *Osten*, the physiological norms of the non-specific biometric parameters include characteristics such as bone structure, physical dimensions, skin temperature, electrocardiographic signals, pulse and spectral characteristics of human tissue (col. 3, lines 1-13, lines 61-67). These non-specific biometric parameter are clearly described as “not unique” to the individual (col. 2, lines 66-67). This non-specific information is only used to determine if the obtained data falls within acceptable norms (col. 3, lines 56-59; col. 4, lines 14-22).

Unlike the teachings of *Osten*, claims 1, 10 and 13 recite that the at least one individual property upon which the “parameter” is based is directly related to the person. It follows that this parameter is not a random value indistinguishable from person to person as the non-specific biometric parameter in *Osten*. As clearly recited in the method, apparatus and system of the present invention, the parameter is in reference to the person’s “individual” properties and is therefore “unique” to the person (page 2, first paragraph in the specification of the present application).

Since *Osten* fails to disclose or suggest using a “parameter” based on a person’s individual properties that specifically influences the sensory detection of specific biometric data of related to the person, *Osten* cannot possibly be construed to disclose or suggest the following limitations of claims 1, 10 and 13 of the present application.

Keeping in mind the basis of the “parameters” in the claims of the present application, it will be pointed out that the individual parameters are stored and subsequently used to redetect biometric data, compare the redetected biometric data for a match with reference data or authenticate a person if the match reaches a degree above a defined threshold value. In view of the description of *Osten et al.*, there is

clearly no disclosure or suggestion in the teachings of Osten et al. of storing at least one parameter that specifically influences specific biometric data based on an individual property of the person being tested that will be taken into account in a subsequent process in confirming the authenticity of such specific biometric data. This assertion is further supported by the fact, as discussed above, that the non-specific biometric parameters in Osten et al. are not related to any particular individual.

Lastly, as clearly illustrated in FIG. 7 of *Osten*, the authentication processes involving specific biometric information and non-specific biometric information are parallel processes that are conducted separately and concurrently (col. 10, lines 12-15). Neither process depends upon the other, and the authentication process may be terminated if only one of the processes yields an unacceptable comparison (col. 10, lines 38-49). Only when both processes are complete and there are acceptable comparisons between the measured information and stored information, is an authentication made.

In contradistinction, the process of authenticating a person in accordance with the method of claim 1, the apparatus of claim 10, and the system of claim 13 of the present application do not rely on two separate authentication processes. Instead, the at least one parameter is dependent or specifically related to biometric data, and modification or adjustment due to the at least one parameter is taken into account in determining the authenticity of the biometric data.

It is simply illogical to construe non-specific biometric information as the equivalent of at least one parameter based on an individual property of a person that specifically influences sensory detection of specific biometric data.

Thus, when properly interpreted, *Osten* requires two separate and parallel recognition and comparison subsystems processes using specific and non-specific biometric information. *Osten* does not discuss or show such a parameter that “specifically” influences the sensory detection of the biometric data, but instead describes a parallel recognition and comparison subsystems used for specific biometric recognition and non-specific biometric recognition.

Although *Osten* does describe authenticating a person using biometric information, it does not disclose or suggest using at least one parameter based on at least one individual property that specifically influences sensory detection of the biometric data. Thus, even an artisan of ordinary skill must guess about how exactly in a separate yet parallel subsystem a determination of non-specific biometric information would substitute for the at least one parameter based on at least one individual property recited in the claims of the present application.

If the claims of the present application were properly interpreted, it be readily apparent that the separate subsystem for authenticating the specific biometric data in *Osten* would require determining at least one parameter in order to anticipate the claims of the present application. About the most that can be said for *Osten* is that the subsystem for authenticating the specific biometric data is not explicitly described as being inconsistent with the method, apparatus and system of the present application. However, this negative pregnant is not enough to show anticipation. *See In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1997) (in order to anticipate, “the [prior art] reference must describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it”).

ii. Shortcomings of *Hoffberg*

The shortcomings of *Hoffberg* are described in the last reply dated October 14, 2005. Turning to the teachings of *Hoffberg*, it is submitted that this patent fails to teach detecting properties that influence the sensory detection of biometric data which are stored in a second memory storage and taken into account during a verification

stage. Instead, *Hoffberg* teaches that the acquisition of the individual factors serve to predict the desires of the person to be carried out by connected systems.

Hoffberg describes an interface for a programmable system including, for example, a video recorder, a medical device, a vehicle control system and the like. This system is adapted to select a function desired by a user. To achieve this purpose, the system uses recorded user history (abstract).

Contrary to the assertion in the rejection, *Hoffberg* does not discuss that upon acquisition and analysis of the biometric features, the individual factors of the person may be additionally considered which influence the acquisition of the biometrical data. The passage of column 49, lines 56-65, in *Hoffberg*, which is relied upon in the rejection, merely describes that the system may identify relevant users by means of biometrical features. There is simply no mention of detecting properties that influence the sensory detection of biometric data, and which are stored in a second memory storage and taken into account during a verification stage.

The rejection also cites the passage of column 34, lines 18 - 34, in support of the notion that *Hoffberg* teaches the missing subject matter of *Osten*. While these passages of *Hoffberg* patent describe the acquisition of certain individual factors of a user, they do not teach or suggest to use these individual factors for influencing the creation or processing of biometrical data. Instead, these passages clearly point out that, depending on the acquired individual properties, it is possible to conclude that the user is in a certain mood and that this knowledge on the user's mood may assist in finding out certain desires of the user towards the behavior of the controlled system, such as climate conditioning (col. 33, line 63 through col. 34, line 17).

In view of these observations, it is readily evident that *Hoffberg* describes that biometrical data may be analyzed for identifying a user and that it is also possible to acquire individual factors of a person. According to *Hoffberg*, however, these factors are not used to specifically influence the identification of a person in whatsoever manner. Instead, *Hoffberg* simply suggests that the acquisition of the individual

factors serves to predict the desires of the person to be carried out by the connected system.

iii. Summary

The fact that the at least one parameter of the rejected claims is one that specifically influences sensory detection of certain biometric data is a critical feature of the pending claims that is neither addressed in the action, nor particularly disclosed in either *Osten* and *Hoffberg*. Therefore, the proposed combination of *Osten* and *Hoffberg* fails to disclose every limitation required by the pending claims.

b. There is no suggestion or motivation to combine *Osten* and *Hoffberg*

It is submitted that one skilled in the art would not be motivated to devise the method, chip card or system according to the rejected claims in view of the combined teachings of *Osten* and *Hoffberg*. As indicated above in the preceding sections, *Osten* and *Hoffberg* fail to collectively teach all of the claimed limitations. Even if combined, it is asserted that *Osten* and *Hoffberg* do not suggest to one skilled in the art the feature of verifying biometric data by taking into account at least one parameter that “specifically” influences sensory detection of biometric data.

One skilled in the art would not be motivated by *Osten* to obtain parameters that specifically influence sensory detection of biometric data used to authenticate a proprietor of such information. Instead, *Osten* teaches evaluating detected biometric data only when it is made certain that the proprietor of such biometric data is alive. Of course, the evaluation used to assure that the proprietor is alive is based on “non-specific” biometric data, and there is no hint in *Osten* of ever storing biometric parameters and taking the same into account to specifically verify the detected biometric data.

Hoffberg, on the other hand, measures dynamically influencing data to determine moods of the proprietor of such data which in turn is used to assist in processing data to make decisions of the user’s preferences. Such data is stored

“separately” from static influences so that the resultant of the dynamically influencing data is based on moods or varying factors (col. 34, lines 18-32).

It is clear that since the dynamic data, which is combined to determine a mood, and the static data of *Hoffberg* are stored separately and distinctly from one another, one skilled in the art would not be motivated by such teaching to arrive at using a parameter based on a personal property that specifically influences sensory detection of biometric data and takes the same into account during a verification of the biometric data, as recited in the rejected claims.

It will be pointed out that *Hoffberg* does not suggest taking the dynamically influencing data as a resultant for nothing more than figuring out the mood of a user.

There is simply no connection in *Hoffberg*, especially in column 34, lines 18-33, which is identified by the examiner in the rejection, of the critical features of the rejected claims. Moreover, one skilled in the art would not be motivated by the mere collection of factors known to contribute to the measurement of a mood as constituting the requirement of obtaining a specific parameter that may be used to verify certain biometric data.

It is submitted that one skilled in the art would not find the suggestion of collecting mood data of *Hoffberg* sufficient motivation to use the same in the system of *Osten* to verify certain biometric data. This is because the system of *Osten* already checks for many of the same factors identified by *Hoffberg*, such as heart rate and temperature (col. 2, line 66 through col. 3, line 13) in determining the viability of a user. The fact that *Hoffberg* collects such aggregate dynamically influencing data and stores it separately from static data would not motivate a skilled artisan to modify the system of *Osten* since nothing would be gained over the system of *Osten*.

In view of these observations, it is submitted that if one skilled in the art were to combine *Osten* and *Hoffberg* in the prescribed manner in the rejection, and definitely one skilled in the art would definitely not arrive at the invention recited in the rejected claims of the pending application since these patents fail to suggest all of

the limitations of the rejected claims, and one skilled in the art would not be motivated by these patents to devise the method, chip card and system of the rejected claims.

c. There is no reasonable expectation of success

Since it has been shown in the above sections, that *Osten* and *Hoffberg*, whether considered individually or collectively, lack sufficient evidence that would motivate one skilled in the art the features of determining and storing at least one parameter on an individual property that specifically influences sensory detection of biometric data which is taken into account in a verification stage, it follows that the proposed modification of these references would not be successful at devising the method, chip card and system of the rejected claims.

d. Summary

Accordingly in view of the aforementioned reasons on the shortcomings of the combination of *Osten* and *Hoffberg*, the proposed combination of *Osten* and *Hoffberg* fails to establish *prima facie* obviousness of the rejected claims. Withdrawal of this rejection is respectfully requested.

VIII. CONCLUSION

For the reasons set forth above, independent claims 1, 10 and 13 of the pending application define subject matter that is not rendered obvious within the meaning of 35 U.S.C. § 103(a) by the proposed combination of *Osten* and *Hoffberg*.

Reversal of the rejection of claims 1, 10 and 13 is respectfully requested. Since claims 19 and 20 recite the method of claim 1, the reversal of the rejection of these claims is likewise requested. Similarly, reversal of rejection of the claims dependent from claims 1, 10 and 13 is respectfully requested in view of the observations on claims 1, 10 and 13 and their dependency from such independent claims.

The Office is authorized to charge any additional fees associated with this communication Deposit Account No. 02-0200.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. Cassell", written in a cursive style.

Date: August 16, 2006

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IX. CLAIMS APPENDIX

Claim 1. A method for biometric authentication of a person, comprising a reference data detection phase and a verification phase, the method comprising the steps of:

in the reference data detection phase,
detecting biometric data of a person and storing the detected biometric data as reference data,
determining at least one parameter based on at least one individual property of the person that specifically influences sensory detection of said biometric data, and storing the determined parameter to be taken into account in at least one of the following method steps of the verification phase,
in the verification phase,
redetecting the person's biometric data,
comparing the redetected biometric data for a match with the reference data,
and
authenticating the person if the match reaches a degree above a defined threshold value.

Claim 2. The method according to claim 1, characterized in that the determined parameter is taken into account in the step of authenticating the person.

Claim 3. The method according to claim 2, characterized in that the defined threshold value is dependent on the determined parameter.

Claim 4. The method according to claim 1, characterized in that the determined parameter is taken into account in the step of redetecting the biometric data.

Claim 5. The method according to claim 4, characterized in that the determined parameter is used for adjusting a sensor system for redetecting the biometric data.

Claim 6. The method according to claim 1, characterized in that the person is granted limited possibilities of activity depending on the determined parameter.

Claim 7. The method according to claim 1, characterized in that the person is granted limited possibilities of activity depending on the degree of the match between the redetected biometric data and the stored reference data.

Claim 8. The method according to claim 1, characterized by an additional step of adapting a sensor system for redetecting the biometric data to environmental conditions prevailing at the time of redetection.

Claim 9. The method according to claim 7, characterized in that the environmental conditions prevailing during detection of the biometric data as reference data are stored and taken into account when a sensor system is adapted upon

redetection of the biometric data to the environmental conditions prevailing at the time of redetection.

Claim 10. A chip card comprising a first memory area with a person's biometric data as reference data and a second memory area with a parameter based on at least one individual property of the person that specifically influences the sensory detection of said biometric data.

Claim 11 (Cancelled).

Claim 12. The chip card according to claim 10, comprising a third memory area with information on the environmental conditions prevailing during detection of the biometric data contained in the first memory area.

Claim 13. A system comprising

a chip card having a first memory area with a person's biometric data as reference data and a second memory area with a parameter based on at least one individual property of the person that specifically influences the sensory detection of said biometric data,

a first device for detecting a person's biometric data, and

a second device for comparing the reference data stored in the first memory area of the chip card for a match with the person's detected biometric data and authenticating the person if the match reaches a degree above a defined threshold

value, at least one of the devices being coupled with the parameter stored in the second memory area of the chip card.

Claim 14. The system according to claim 13, characterized in that the second memory area of the apparatus with the determined parameter and the device for authenticating the person are coupled by the defined threshold value depending on the determined parameter.

Claim 15. The system according to claim 13, characterized in that the second memory area with the determined parameter and the device for detecting the person's biometric data are coupled by the determined parameter being taken into account during adjustment of a sensor system for detecting the biometric data.

Claim 16. The system according to claim 13, characterized in that the system contains an activity filter which is variable in dependence on the determined parameter.

Claim 17. The system according to claim 13, characterized in that the system contains an activity filter which is variable in dependence on the degree of the match between the redetected biometric data and the stored reference data.

Claim 18. The system according to claim 13, characterized in that the device for detecting the person's biometric data includes a sensor system which is variably

adjustable to the environmental conditions prevailing during detection of the person's biometric data depending on the information stored in the third memory area of the apparatus.

Claim 19. A method for biometric authentication of a person, comprising a reference data detection phase and a verification phase, the method comprising the steps of:

in the reference data detection phase,

detecting biometric data of a person and storing the detected biometric data as reference data,

determining at least one parameter based on at least one individual property of the person that specifically influences sensory detection of said biometric data, and storing the determined parameter to be taken into account in at least one of the following method steps of the verification phase,

in the verification phase,

redetecting the person's biometric data,

comparing the redetected biometric data for a match with the reference data,

and

authenticating the person if the match reaches a degree above a defined threshold value;

wherein the determined parameter is taken into account in the step of authenticating the person and the defined threshold value is dependent on the determined parameter.

Claim 20. A method for biometric authentication of a person, comprising a reference data detection phase and a verification phase, the method comprising the steps of:

in the reference data detection phase,

detecting biometric data of a person and storing the detected biometric data as reference data,

determining at least one parameter based on at least one individual property of the person that specifically influences sensory detection of said biometric data, and storing the determined parameter to be taken into account in at least one of the following method steps of the verification phase,

in the verification phase,

redetecting the person's biometric data,

comparing the redetected biometric data for a match with the reference data,

and

authenticating the person if the match reaches a degree above a defined threshold value;

wherein the determined parameter is taken into account in the step of redetecting the biometric data and used for adjusting a sensor system for redetecting the biometric data.

Claim 21 (Not Entered). A method for biometric authentication of a person, comprising a reference data detection phase and a verification phase, the method comprising the steps of:

in the reference data detection phase,

detecting biometric data of a person and storing the detected biometric data as reference data,

determining at least one parameter based on at least one individual property of the person that specifically influences sensory detection of said biometric data, and storing the determined parameter to be taken into account in at least one of the following method steps of the verification phase,

in the verification phase,

redetecting the person's biometric data,

comparing the redetected biometric data for a match with the reference data, and

authenticating the person if the match reaches a degree above a defined threshold value;

wherein the person is granted limited possibilities of activity depending on the determined parameter.

Claim 22 (Not Entered). A method for biometric authentication of a person, comprising a reference data detection phase and a verification phase, the method comprising the steps of:

in the reference data detection phase,

detecting biometric data of a person and storing the detected biometric data as reference data,

determining at least one parameter based on at least one individual property of the person that specifically influences sensory detection of said biometric data, and storing the determined parameter to be taken into account in at least one of the following method steps of the verification phase,

in the verification phase,
redetecting the person's biometric data, and
comparing the redetected biometric data for a match with the reference data,
authenticating the person if the match reaches a degree above a defined threshold value;

wherein the person is granted limited possibilities of activity depending on the degree of the match between the redetected biometric data and the stored reference data.

Claim 23 (Not Entered). The method according to claim 22, characterized in that the environmental conditions prevailing during detection of the biometric data as reference data are stored and taken into account when a sensor system is adapted upon redetection of the biometric data to the environmental conditions prevailing at the time of redetection.

X. EVIDENCE APPENDIX

There are no copies of evidence entered and relied upon in this appeal
of the pending application.

XI. RELATED PROCEEDINGS APPENDIX

There are no related proceedings or decisions rendered by a court or the Board of Appeals in any proceeding identified in the related appeals and interferences section in the pending application.